

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 20.02.2020

Pronounced on: 25.02.2020

Coram::

The Honourable Dr.Justice G.Jayachandran

Review Application (Writ).No.228 of 2019
& W.M.P.No.34023 of 2019
in W.P.No.7745 of 2019

V.Perumal,
S/o.Late M.Vendavarasi,
No.4/129, Nehru Street,
Pudupakkam, Thiruporur Taluk,
Kanchipuram District – 603 103.

... Petitioner

/versus/

1. The District Revenue Officer,
Kanchipuram District.
2. The Revenue Divisional Officer,
Chengalpet, Kanchipuram District.
3. The Tahsildar,
Taluk Office, Thiruporur,
Kanchipuram District.
4. The Director of Town & Country Planning,
Chengalpet.
5. Mamallapuram Local Planning Authority,
Mamallapuram.
6. The Block Development Officer,
Tirupporur.
7. The Sub-Registrar, Tirupporur.

8. Mr.Nazeem Sharif,
W/o.Nusrah Sharif,
No.90, Millers Road,
Kilpauk, Chennai – 600 010.

9. M/s.Isha Homes (India) Pvt. Ltd.,
Rep. By its Authorised Signatory,
Mr.N.Anbu Mani,
Old No.55, New No.74,
1st Avenue, Indira Nagar,
Adyar, Chennai – 600 020.

...Respondents

Prayer: Review Application is filed under Order 47 Rules 1 & 2 of C.P.C read with under Section 114 of C.P.C against which to review the order passed by this Hon'ble Court vide its order dated 19.08.2019 made in W.P.No.7745 of 2019 and allow this review application.

For Petitioner : Ms.G.Thilagavathy, Senior Counsel,
for Mr.D.Kanagasundaram

For R1 to R7 : Mr.Karthikai Balan,
Government Advocate

For R8 : Mr.Sashidhar,

For R9 : Mr.S.Rajasekar,

ORDER

Writ Petition was filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, to direct the 4th and 5th respondent to cancel the lay out approved No.18/2016 and Planning Permit No.22/2016

vide approved Letter No. 1220/2015 dated 28.07.2016 issued to the 8th respondent for the purpose of construction of flats in respect of property bearing S.No. 64/10B, 12, 13, 65/1, 2, 6, 8A, 8B & 9B of Pudupakkam Village, Tiruporur Panchayat Union, Tiruporur Taluk, Kancheepuram District and further to revoke and cancel the gift deed bearing No. 4070/2016 registered at SRO, Thiruporur.

2. This Court, after hearing the counsels and their respective pleadings passed the following order:-

"4. The Learned Counsel appearing for the petitioner would submit that, after perusing the counter and the revised plan, had satisfied that the land falling under S.No. 65/8A does not fall within the revised approved lay out and therefore, he has no grievance in the revised plan approved by the SRO, Thiruporur, in favour of the 9th respondent. However, he is concerned about the gift deed executed in favour of the Local Authority, which includes the disputed portion under S.No. 65/8A.

5. As far as, this portion is concerned, the right over the property has to be decided by the Revenue Authorities and the competent Civil Court. As of now, to avoid complication and further litigation, the 9th

respondent has excluded that portion from the lay out and therefore, the prayer in the Writ Petition in so far as this relief is concerned, does not survive. Regarding the gift deed, if the dispute between the petitioner and the vendor of the 9th respondent ends in favour of the petitioner, then automatically the inclusion of S.No.65/8A in the gift deed will become non est in law and therefore, this issue cannot be decided in this Writ Petition."

3. Now, the present Review Application is filed on the ground that, disposal of the writ petition did not have his grievance redressed as recorded in the above order.

4. According to the review petitioner, the observation of this Court at paragraph No.4 of the order regarding the alleged satisfaction of the Writ petitioner about the revised approved layout submitted by the 9th respondent is not factually correct. Further, in the review petition, it is also contended that, the revision of approved layout cannot be made under the Tamil Nadu Combined Development and Building Rules, 2019 and therefore, in the absence of power to revise the approved layout, recording of the fact that, the review petitioner has no grievance in the revised plan approval by the SRO, Thiruppur, in favour of the 9th

respondent requires review. It is also contended by the learned Senior Counsel for the review petitioner that, without cancellation of the gift deed in favour of the local authority, which has included the land of the petitioner in S.No.65/8A. The 2nd gift deed executed by the 9th respondent excluding in S.No.65/8A will by no stretch of imagination redress the grievance of the petitioner.

5. The Writ Petition is filed on the premise that the petitioner is owner of 16 cents of land in S.No.65/8A based on the patta in his favour. The allegation was the 9th respondent, the promoter had included his portion of his land in the layout and got approval for the building.

6. In the said circumstances, this Court, after ensuring that, the petitioner's land of 16 cents in S.No.65/8A is excluded from the plan approval and building approval passed the above order. The original plan and revised plan was perused by this Court and thereafter, found that the land of the writ petitioner in S.No.65/8A has been excluded in the 2nd plan and does not form part of the revised plan approval.

7. In the said context, this Court has recorded that the petitioner has no grievance for the revised plan approval since his land is not included. In the Review Petition, the writ petitioner expresses his apprehension that, the said observation may construed as consent for revised approved layout which is not his intention. Further, it is contended that, unless the previous gift deed is cancelled, the transfer of his land in S.No.65/8A will remain valid though subsequent gift deed has excluded S.No.65/8A.

8. This Court, after anxious consideration to the submissions made by the review petitioner, dispose this review petition with a following note:-

(i). The revised approved layout furnished by the 9th respondent has excluded the disputed land in S.No.65/8A. In view of this Court the writ petitioner can have no grievance. If there is any grievance, he can work out his remedy in the manner known to law.

9. As far as the request for cancellation of the gift deed is concerned, this Court, in its order at Paragraph No.5 has observed that,

if the title dispute between the parties reaches its finality, then it will have bearing on the gift deed. Even if any cancellation is effected at present, the land bearing S.No.65/8A will only revert back to the donor and not to the writ petitioner. As pointed earlier, dispute in title has to be decided by the competent Civil Court. This Court has consciously observed that, as of now to avoid complication and further litigation, exclusion of S.No.65/8A in the subsequent gift deed suffices to protect the interest of both the rival claims, once the title dispute gets resolved the consequence will follow.

10. With the note, the **Review Application is disposed of.**

No costs. Consequently, connected Miscellaneous Petition is closed.

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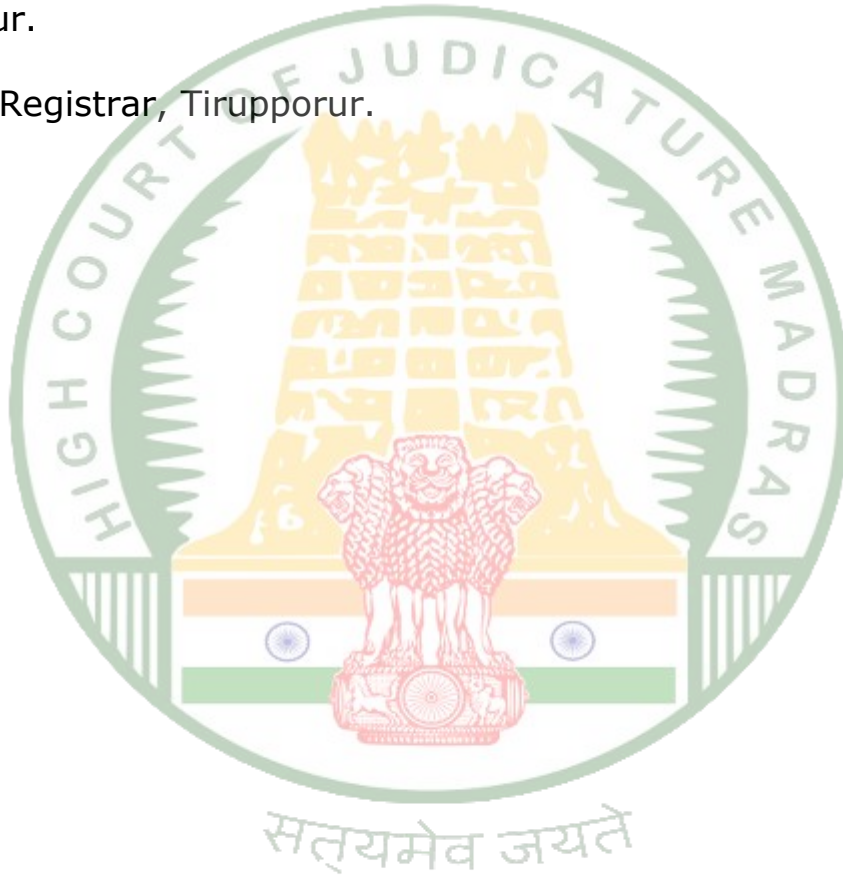
Index :Yes/No.

Internet :Yes/No.

Speaking order/Non-speaking order.

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Dr.G.Jayachandran,J.

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Pre-delivery order in
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